

FILED

APR 26 2002

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

NANCY SMITH

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§
§

v.

BROADWING COMMUNICATIONS,
INC. F/K/A IXC COMMUNICATIONS

CASE NO. A 01CA 442 SS

**DEFENDANT BROADWING COMMUNICATIONS INC. F/K/A IXC
COMMUNICATIONS' OBJECTIONS ON GROUNDS OTHER THAN FED. R. EVID
402 AND 403 TO THE ADMISSIBILITY OF PLAINTIFF'S TRIAL EXHIBITS**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

COMES NOW Broadwing Communications, Inc. f/k/a IXC Communications (whose correct name is Broadwing Communications Inc.) ("Broadwing") and pursuant to Local Rule CV-16(e)(ii) and files its objections on grounds other than Fed. R. Evid. 402 and 403 to the admissibility of Plaintiff's trial exhibits and respectfully shows as follows:

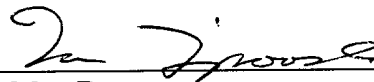
1. Plaintiff's Exhibit P-5 identified as "EEOC Affidavit executed by Plaintiff" is objected to as hearsay.
2. Plaintiff's Exhibit P-11 identified as "Affidavit of Nancy Smith – Exhibit 2 of the Deposition of Nancy Smith" is objected to as hearsay.
3. Plaintiff's Exhibit P-13 identified as "Correspondence from Plaintiff to Michelle Mergerle dated August 16, 2000" is objected to as hearsay.
4. Plaintiff's Exhibit P-16 identified as "Texas Commission on Human Rights Intake Questionnaire regarding Plaintiff" is objected to as hearsay.

5. Plaintiff's Exhibit P-19 identified as "Defendant's Response to Plaintiff's Request for Production" is objected to on the grounds that it does not sufficiently identify the documents intended to be used as exhibits.

WHEREFORE, PREMISES CONSIDERED, Defendant Broadwing Communications, Inc. f/k/a IXC Communications (whose correct name is Broadwing Communications Inc.) requests the Court to refuse any request by Plaintiff to admit the aforementioned Plaintiff's exhibits.

Respectfully submitted,

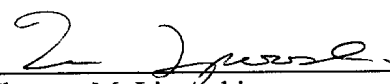
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100 Congress Avenue, Suite 1100
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By: 
Matt Dow
State Bar No. 06066500
Thomas M. Lipovski
State Bar No. 00791121

ATTORNEYS FOR BROADWING
COMMUNICATIONS, INC. F/K/A IXC
COMMUNICATIONS

CERTIFICATE SERVICE

This is to certify that on the 26th day of April, 2002, a true and correct copy of Defendant Broadwing Communications Inc. f/k/a IXC Communications' Objections on Grounds Other than Fed. R. Evid 402 and 403 to the Admissibility of Plaintiff's Trial Exhibits has been hand delivered to Scott F. DeShazo, Herman, Howry & Breen, L.L.P., 1900 Pearl Street, Austin, Texas 78705.


Thomas M. Lipovski